

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

CARL DEAN WYATT, JR.,)	
)	
Petitioner,)	
)	
v.)	No. CIV-22-740-R
)	
SCOTT CROW,)	
)	
Respondent.)	

ORDER

Petitioner filed this action pursuant to 28 U.S.C. § 2254, seeking a writ of habeas corpus. Pursuant to 28 U.S.C. § 636(b)(1)(B) and (C) the matter was referred to United States Magistrate Judge Suzanne Mitchell for preliminary review. On September 20, 2022, Judge Mitchell issued a Report and Recommendation wherein she recommended that the Court dismiss the petition for lack of jurisdiction because the petition is second or successive. (Doc. No. 7). The matter is currently before the Court on Petitioner's timely objection to the Report and Recommendation, which gives rise to the Court's obligation to undertake a *de novo* review of Petitioner's specific objections thereto. Having conducted such review, the Court finds as follows.

Petitioner argues that this Court may permit his habeas petition to proceed in the interest of justice. The Court, however, cannot permit a second or successive petition to proceed in the absence of authorization from the Court of Appeals for the Tenth Circuit. 28 U.S.C. § 2244(b)(3)(A). Judge Mitchell's conclusion that this Court lacks jurisdiction does not address the merits of Petitioner's claims nor does it consider the deference

afforded to certain findings by the Oklahoma Court of Criminal Appeals under the Antiterrorism and Effective Death Penalty Act (“AEDPA”), the issues addressed by Petitioner’s objection. Simply stated, the Court may not address those issues until Petitioner obtains permission from the Court of Appeals to pursue a successive petition. Petitioner’s objection does not address the issues set forth in the Report and Recommendation and accordingly, the Report and Recommendation is hereby ADOPTED IN ITS ENTIRETY. The Petition is DISMISSED FOR LACK OF JURISDICTION.¹

IT IS SO ORDERED this 11th day of October 2022.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE

¹ The Court further finds Petitioner has not shown “at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether [this] court was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). See also 28 U.S.C. § 2253(c). Therefore, Petitioner is denied a certificate of appealability. See Rule 11(a) of the Rules Governing Section 2254 Cases.